

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NICOLE LAWSTONE-BOWLES,

Plaintiff,

-against-

U.S. BANK NATIONAL ASSOCIATION, As
Trustee, In Trust For The Holders of MLMI
Trust 2002-AFC Asset-Backed Certificates,
Series 2002-AFC1 (USBank), et al.,

Defendants.

ORDER

19-CV-05786 (PMH)

PHILIP M. HALPERN, United States District Judge:

On December 17, 2020, the Court ordered Plaintiff Nicole Lawtone-Bowles (“Plaintiff”) to show cause by January 15, 2021 regarding her failure to serve timely the Summons and Complaint on U.S. Bank National Association, As Trustee, In Trust For The Holders of MLMI Trust 2002-AFC Asset-Backed Certificates, Series 2002-AFC1 (USBank) (“U.S. Bank”), Select Portfolio Servicing (SPS) (“SPS”), and Steven J. Baum, P.C. (“Baum” and collectively, “Unserved Defendants”) within the ninety (90) day period allotted by the September 17, 2019 Order of Service and Federal Rule of Civil Procedure 4(m).¹ (Doc. 30). This Court directed specifically that Plaintiff respond in writing to: (1) explain why she never requested an extension of time to effectuate service on the Unserved Defendants; and (2) advise as to whether she wished to proceed against the Unserved Defendants and, if so, to provide any available additional information about their service addresses. (*Id.* at 3-4). The December 17, 2020 Order to Show Cause warned that, “[f]ailure to comply with this Order shall result in dismissal” without prejudice as to the Unserved

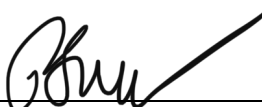
¹ The only other Defendant, Phionah N. Brown (“Brown”), has appeared in this action and filed a motion to dismiss. (Doc. 25). The Court will address Brown’s motion by Order docketed separately.

Defendants under Federal Rules of Civil Procedure 4(m) and 41(b), and could result “in dismissal without prejudice to Brown as well.” (*Id.* at 4).

As Plaintiff has not responded to the December 17, 2020 Order to Show Cause, the claims for relief against U.S Bank, SPS, and Baum are dismissed without prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b). The Clerk of the Court is respectfully directed to terminate U.S. Bank, SPS, and Baum from this action.

SO ORDERED:

Dated: New York, New York
January 19, 2021



PHILIP M. HALPERN
United States District Judge